



January 24, 2017

MEMORANDUM

TO: Kathleen Guith
Associate General Counsel

Jeff S. Jordan
Assistant General Counsel

AUDIT REFERRAL # 17-01

THROUGH: Alec Palmer
Staff Director

FROM: Patricia C. Orrock
Chief Compliance Officer

Thomas Hintermister

Digitally signed by Thomas Hintermister
DN: cn=Thomas Hintermister, o=Federal Election
Commission, email=thinterm@fec.gov, c=US
Date: 2017.01.24 10:16:10 -0500

Thomas Hintermister
Assistant Staff Director
Audit Division

Thomas Hintermister

Digitally signed by Thomas Hintermister
DN: cn=Thomas Hintermister, o=Federal Election
Commission, email=thinterm@fec.gov, c=US
Date: 2017.01.24 10:16:10 -0500

Rickida Morcomb
Audit Manager

Rickida
Morcomb

Digitally signed by Rickida Morcomb
DN: cn=Rickida Morcomb, o=Federal Election
Commission, email=rmorcomb@fec.gov, c=US
Date: 2017.01.24 11:24:53 -0500

A'knea Smith
Lead Auditor

A'knea Smith

Digitally signed by A'knea Smith
DN: cn=A'knea Smith, o=Federal Election
Commission, email=asmith@fec.gov, c=US
Date: 2017.01.24 11:24:53 -0500

SUBJECT: Utah Republican Party (A13-06) – Referral Matters

On January 6, 2017, the Commission approved the Proposed Final Audit Report on the Utah Republican Party. The report was released to the public on January 23, 2017. In accordance with the Materiality Thresholds for Unauthorized Committees, the Final Audit Report of the Commission includes findings that meet the criteria for referral to the Office of General Counsel. Also, Finding 1–Receipt of Prohibited Contributions and Finding 2–Receipt of Contributions that Exceed Limits meets the criteria for referral to the Office of Alternative Dispute Resolution however, is being referred to your office in accordance with the policy.

Finding 1– Receipt of Prohibited Contributions: Amount in Violation (\$23,600);
Calendar Years (2011, 2012)

Finding 2– Receipt of Contributions that Exceed Limits: Amount in Violation
(\$42,925); Calendar Year (2012)

Finding 3–Misstatement of Financial Activity: Amount in Violation (\$107,013);
Calendar Year (2011)

Finding 4-Recordkeeping for Employees: Amount in Violation (\$270,738);
Calendar Years (2011, 2012)
Finding 5-Reporting of Debts and Obligations: Amount in Violation (\$205,323);
Calendar Years (2011, 2012)

All workpapers and related documentation are available for review in the Audit Division.
Should you have any questions regarding these matters, please contact A'knea Smith or Rickida
Morcomb at 694-1200.

Attachments: Finding 1- Receipt of Prohibited Contributions
Finding 2- Receipt of Contributions that Exceeds Limits
Finding 3- Misstatement of Financial Activity
Finding 4- Recordkeeping for Employees
Finding 5- Reporting of Debts and Obligations
Designation of Counsel

1-694-1200-10

Finding 1. Receipt of Prohibited Contributions

Summary

During audit fieldwork, a review of contributions revealed that URP deposited five apparent prohibited contributions totaling \$23,600 into its federal account. URP transferred \$23,600 into a non-federal account, albeit in an untimely manner, to correct this matter. In response to the Interim Audit Report recommendation and the Draft Final Audit Report, URP did not provide any documentation to demonstrate the funds were transferred within thirty days of the date on which it discovered the contributions were prohibited. URP's counsel stated that URP has long since remedied the issue identified for this finding. The Audit staff concluded that URP untimely resolved prohibited contributions totaling \$23,600.

The Commission approved a finding that URP deposited in its federal account prohibited contributions totaling \$23,600 that were untimely resolved.

Legal Standard

- A. Receipt of Prohibited Corporate Contributions.** Political committees may not accept contributions from the general treasury funds of corporations. This prohibition applies to any type of corporations including a non-stock corporation, as incorporated membership organization, and an incorporated membership organization, and an incorporated cooperative. 52 U.S.C. §30118.
- B. Receipt of Prohibited Contributions – General Prohibition.** Candidates and committees may not accept contributions (in the form of money, in-kind contributions or loans):
1. In the name of another; or
 2. From the treasury funds of the following prohibited sources:
 - Corporations (this means any incorporated organization, including a non-stock corporation, an incorporated membership organization, and an incorporated cooperative);
 - Labor Organizations; or
 - National Banks;
 3. Federal Government Contractors (including partnerships, individuals, and sole proprietors who have contracts with the federal government); and
 4. Foreign Nationals (including individuals who are not U.S. citizens and not lawfully admitted for permanent residence; foreign governments and foreign political parties; and groups organized under the laws of a foreign country or groups whose principal place of business is in a foreign country, as defined in 22 U.S.C. §611(b)). 52 U.S.C. §§30118, 30119, 30121, and 30122.
- C. Questionable Contributions.** If a committee receives a contribution that appears to be prohibited (a questionable contribution), it must follow the procedures below:
1. Within 10 days after the treasurer receives the questionable contribution, the committee must either:
 - Return the contribution to the contributor without depositing it; or
 - Deposit the contribution (and follow the steps below). 11 CFR §103.3(b)(1).

2. If the committee deposits the questionable contribution, it may not spend the funds and must be prepared to refund them. It must therefore maintain sufficient funds to make the refunds or establish a separate account in a campaign depository for possibly illegal contributions. 11 CFR §103.3 (b)(4).
3. The committee must keep a written record explaining why the contribution may be prohibited and must include this information when reporting the receipt of the contribution. 11 CFR §103.3(b)(5).
4. Within 30 days of the treasurer's receipt of the questionable contribution, the committee must make at least one written or oral request for evidence that the contribution is legal. Evidence of legality includes, for example, a written statement from the contributor explaining why the contribution is legal or an oral explanation that is recorded by the committee in a memorandum. 11 CFR §103.3(b)(1).
5. Within these 30 days, the committee must either:
 - Confirm the legality of the contribution; or
 - Refund the contribution to the contributor and note the refund on the report covering the period in which the refund was made. 11 CFR §103.3(b)(1).

D. Federal v. Nonfederal Account. The federal account may contain only those funds that are permissible under the federal election law; the nonfederal account may contain funds that are not permitted under the federal law (but are legal under state law), such as contributions that exceed the limits of the federal law and contributions from prohibited sources, such as corporations and labor organizations. 11 CFR 102.5 (a) (1) (i) and (a) (3).

E. Late Discovery of Prohibited Contribution. If the treasurer in exercising his or her responsibilities under 11 CFR 103.3(b) determined that at the time a contribution was received and deposited, it did not appear to be made by a corporation, labor organization, foreign national or Federal contractor, or made in the name of another, but later discovers that it is illegal based on new evidence not available to the political committee at the time of receipt and deposit, the treasurer shall refund the contribution to the contributor within thirty days of the date on which the illegality is discovered. If the political committee does not have sufficient funds to refund the contribution at the time of the illegality is discovered, the political committee shall make the refund from the next funds it receives. 11 CFR 103.3(b)(2).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed contributions to URP from other political committees and identified five contributions totaling \$23,600 from apparent prohibited sources. Each of these contributions appeared to be from corporations; however, the Audit staff could not verify the corporate tax status with the Utah Secretary of State. It is noted that the state of Utah allows unlimited contributions from corporations. In accordance with 11 CFR §103.3(b)(4), URP deposited these questionable funds into its federal account and maintained sufficient federal funds to refund them.

17-04541

On December 1, 2016, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that URP

deposited in its federal account prohibited contributions totaling \$23,600 that were untimely resolved.

The Commission approved the Audit staff's recommendation.,

— 10 —

Finding 2. Receipt of Contributions that Exceeds Limits

Summary

During audit fieldwork, the Audit staff identified apparent excessive contributions from three individuals that exceeded contribution limits by \$42,925. These errors occurred as a result of URP not resolving the excessive portion of the contributions by issuing a refund to the contributor or making a transfer to a non-federal account in a timely manner. Subsequently, URP transferred the excessive portion of the contributions to a non-federal account, albeit untimely. In response to the Interim Audit Report recommendation and the Draft Final Audit Report, URP did not provide any documentation to demonstrate the funds were transferred within 60 days of receiving the excessive contributions. URP's counsel stated that URP has long since remedied the issue identified for this finding. The Audit staff concluded that URP untimely resolved excessive contributions totaling \$42,925.

The Commission approved a finding that URP accepted contributions that exceeded the limits by \$42,925 and the funds were untimely resolved with a transfer to a non-federal account.

Legal Standard

- A. Party Committee Limits.** For the 2012 election cycle, a party committee may not receive more than a total of \$10,000 per year from any one contributor. 52 U.S.C. §30116(a)(1)(D) and 11 CFR §110.9.
- B. Handling Contributions That Appear Excessive.** If a committee receives a contribution that appears to be excessive, the committee must either:
1. Return the questionable check to the donor; or
 2. Deposit the check into its federal account and:
 - Keep enough money in the account to cover all potential refunds;
 - Keep a written record explaining why the contribution may be illegal;
 - Include the explanation on Schedule A if the contribution has to be itemized before its legality is established;
 - Seek a reattribution of the excessive portion, following the instructions provided in Commission regulations (see below for explanation of reattribution); and
 - If the committee does not receive a proper reattribution within 60 days after receiving the excessive contribution, refund the excessive portion to the donor. 11 CFR §§103.3(b)(3),(4) and (5) and 110.1(k)(3)(ii)(B).
- C. Joint Contributions.** Any contribution made by more than one person (except for a contribution made by a partnership) must include the signature of each contributor on the check or in a separate writing. A joint contribution is attributed equally to each donor unless a statement indicates that the funds should be divided differently. 11 CFR §110.1(k)(1) and (2).
- D. Reattribution of Excessive Contributions.** Commission regulations permit committees to ask donors of excessive contributions whether they had intended their contribution to be a joint contribution from more than one person and whether they would like to *reattribute* the excess amount to the other contributor. The committee

must inform the contributor that:

1. The reattribution must be signed by both contributors;
2. The reattribution must be received by the committee within 60 days after the committee received the original contribution; and
3. The contributor may instead request a refund of the excessive amount. 11 CFR §110.1(k)(3).

Within 60 days after receiving the excessive contribution, the committee must either receive the proper reattribution or refund the excessive portion to the donor. 11 CFR §§103.3(b)(3) and 110.1(k)(3)(ii)(B). Further, a political committee must retain written records concerning the reattribution in order for it to be effective. 11 CFR §110.1(l)(5).

Facts and Analysis

A. Facts

The Audit staff's review of contributions indicated that URP deposited apparent excessive contributions from three individuals totaling \$42,925 into its federal account. These excessive contributions were a result of URP not refunding or transferring the excessive portion to a non-federal account in a timely manner. URP did maintain sufficient funds in its federal accounts to make the refunds during the audit cycle. The three individuals each made the contributions in 2012 with checks imprinted with single accountholders. It is unclear if the contributors intended their contributions to be for URP's federal or non-federal accounts.

Prior to notification of the audit, URP realized the contributions were excessive. URP reported the \$42,925 as federal contributions on Schedule A (Itemized Receipts) as well as debt to the non-federal account on Schedule D (Debts and Obligations). In order to resolve the excessive portions, URP subsequently made transfers totaling \$42,925 to a non-federal account in January and April 2014. However, the transfers were required to be made within 60 days of receipt of the original contributions and were therefore considered untimely.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter at the exit conference and provided URP representatives a schedule of the apparent excessive contributions. URP representatives stated the contributions were deposited into the federal account but should have been deposited into a non-federal account. Once discovered, URP reported the transactions as debt owed to a non-federal account until the transfers were made. URP representatives added that documentation had already been provided to the Audit staff.

In response to the exit conference, URP representatives stated they have already taken corrective action and did not believe any further remedial measures were needed at that time. Supporting documentation was also provided. The Audit staff acknowledged the subsequent transfers totaling \$42,925 to a non-federal account as a remedy for the excessive amount was made in an untimely manner.

The Interim Audit Report recommended URP demonstrate that the funds were transferred timely (within 60 days of receiving the excessive contribution). Absent such a demonstration, the Audit staff would conclude that URP transferred the \$42,925 excessive contributions in an untimely manner.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, URP's counsel stated that URP has long since remedied the issue identified for this finding. URP did not provide any documentation demonstrating the funds were transferred within 60 days of receiving the excessive contributions. The Audit staff concluded that URP untimely resolved excessive contributions totaling \$42,925.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that URP untimely resolved the excessive contributions totaling \$42,925 by making transfers to a non-federal account.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, URP stated the issue identified in the finding was remedied.

Commission Conclusion

On December 1, 2016, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that URP accepted contributions that exceeded the limits by \$42,925 and the funds were untimely resolved with a transfer to a non-federal account.

The Commission approved the Audit staff's recommendation.

Finding 3. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of URP's reported financial activity with its bank records revealed a misstatement of financial activity for receipts in 2011 totaling \$107,013 and an overstated ending cash-on-hand balance totaling \$10,028. In addition, URP had a misstatement of receipts and disbursements for 2012. In 2012, URP understated its receipts and disbursements by \$114,582 and \$96,176, respectively. In response to the Interim Audit Report recommendation, URP amended its disclosure reports to materially correct the misstatements for both 2011 and 2012. In response to the Draft Final Audit Report, URP's counsel stated that URP resolved the issue by amending its disclosure reports.

The Commission approved a finding that URP misstated its financial activity for the calendar years 2011 and 2012.

Legal Standard

Contents of Reports. Each report must disclose:

- the amount of cash-on-hand at the beginning and end of the reporting period;
- the total amount of receipts for the reporting period and for the calendar year;
- the total amount of disbursements for the reporting period and for the calendar year, and;
- certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 52 U.S.C. 30104 (b)(1),(2),(3),(4) and (5).

Facts and Analysis

A. Facts

As part of audit fieldwork, the Audit staff reconciled URP's reported financial activity with its bank records for 2011 and 2012. For the 2011 bank reconciliation, the Audit staff identified a misstatement of receipts and of the ending cash-on-hand balance. For the 2012 bank reconciliation, URP understated both its receipts and disbursements. The following charts detail the discrepancies between URP's disclosure reports and its bank records, and the succeeding paragraphs explain why the discrepancies occurred.

2011 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2011	\$183	\$421	\$238 Understated
Receipts	\$542,049	\$532,991	\$9,058 Overstated
Disbursements	\$537,131	\$538,339	\$1,208 Understated
Ending Cash Balance @ December 31, 2011	\$5,101	(\$4,927)	\$10,028 Overstated

Receipts in 2011 were overstated by \$9,058. However, when evaluating the identified errors, regardless of whether the errors were positive or negative (absolute value), the receipts were misstated by \$107,013. In addition, the \$10,028 overstatement of ending cash-on-hand balance resulted from the following adjustments that should be made to correct the reporting of receipts totaling \$107,013:

• Transfers from non-federal accounts, over reported	\$36,301
• Transfers from non-federal accounts, not reported	49,026
• Contributions from individuals, not reported	25
• Contributions over reported (not supported by a deposit)	15,500
• Unitemized contributions, over reported	6,161
Sum of Reporting Adjustments	<u>\$ 107,013</u>

2012 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2012	\$5,101	(\$4,927)	\$10,028 Overstated
Receipts	\$2,220,117	\$2,334,699	\$114,582 Understated
Disbursements	\$2,192,403	\$2,288,579	\$96,176 Understated
Ending Cash Balance @ December 31, 2012	\$32,816 ¹	\$41,193	\$8,377 Understated

The understatement of receipts resulted from the following:

• Transfers from non-federal accounts, over reported	(\$20,584)
• Transfer from non-federal accounts, not reported	133,058
• Contributions from political committees, individuals & refunds not reported	66,758
• Contributions from individuals and political committees over reported	(15,668)
• Unitemized contributions, over reported	(11,351)
• Unexplained differences	(37,631)
Net Understatement of Receipts	<u>\$ 114,582</u>

The understatement of disbursements resulted from the following:

• Payroll and payroll taxes, not reported	\$48,105
• Bank fees, not reported	1,387
• Vendor payments, transfers to the non-federal account, and other disbursements, not reported	75,201
• Bank fees, over reported	(5,887)
• Operating disbursements, over reported	(2,695)
• Federal Election Activity, over reported	(1,173)

¹ This total does not foot due to dollar amount rounding.

• Transfers to affiliated/other party committees, over reported	(904)
• Unexplained differences	(17,858)
Net Understatement of Disbursements	<u>\$96,176</u>

The \$8,377 understatement of the ending cash-on-hand balance resulted from the misstatements described above.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with URP representatives at the exit conference and provided supporting schedules of the misstatements. URP representatives asked questions for clarification and stated they may amend the reports if they determined the supporting schedules provided by the Audit staff were correct.

In response to the exit conference, URP representatives stated they would amend the reports "at a time the Commission deems appropriate, in accordance with the Audit Division's instructions."

The Interim Audit Report recommended URP amend its disclosure reports to correct the misstatements noted above and reconcile the cash-on-hand balance on its most recent report to identify any subsequent discrepancies that could affect the recommended adjustments. The Interim Audit Report further recommended that URP adjust the cash-on-hand balance as necessary on its most recent report, noting that the adjustment was the result of prior-period audit adjustments.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, URP amended its disclosure reports to materially correct the misstatements for both 2011 and 2012 reports.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that URP amended its disclosure reports to materially correct the misstatements for both 2011 and 2012.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, URP stated the issue was remedied by amending its disclosure reports.

Commission Conclusion

On December 1, 2016, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that URP misstated its financial activity for calendar years 2011 and 2012.

The Commission approved the Audit staff's recommendation.

Finding 4. Recordkeeping for Employees

Summary

During audit fieldwork, the Audit staff determined that URP did not maintain any monthly payroll logs, as required, to document the percentage of time each employee spent in connection with a federal election. For 2011 and 2012, the Audit staff identified payments to URP employees totaling \$285,242 for which URP did not maintain monthly payroll logs. This consisted of \$269,776 for which payroll was allocated with federal and non-federal funds, and \$15,466 for which payroll was exclusively paid with non-federal funds. URP stated it did not maintain monthly payroll logs during the 2012 election cycle but intends to maintain such payroll logs in the future. In response to the Interim Audit Report recommendation and the Draft Final Audit Report, URP's counsel stated that URP has long since remedied the issue identified for this finding. URP complied with the Interim Audit Report recommendation by implementing a plan to maintain monthly payroll logs in the future.

The Commission approved a finding that URP failed to maintain monthly payroll logs totaling \$270,738, which consisted of \$269,776 that URP disclosed as having been paid with an allocation of federal and non-federal funds and \$962 that was paid from an exclusively non-federal account during periods in which the employee was also paid with federal funds. The Commission did not approve the portion of the recommended finding related to \$14,504 in payroll paid exclusively with non-federal funds, and, as such, these expenses are presented as an "Additional Issue."

Legal Standard

Maintenance of Monthly Logs. Party committees must keep a monthly log of the percentage of time each employee spends in connection with a federal election. Allocations of salaries, wages, and fringe benefits are to be undertaken as follows:

- employees who spend 25 percent or less of their compensated time in a given month on federal election activities must be paid either from the federal account or be allocated as administrative costs;
- employees who spend more than 25 percent of their compensated time in a given month on federal election activities must be paid only from a federal account; and,
- employees who spend none of their compensated time in a given month on federal election activities may be paid entirely with funds that comply with state law. 11 CFR §106.7(d)(1).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed disbursements for payroll. URP did not maintain any monthly payroll logs or equivalent records to document the percentage of time each employee spent in connection with a federal election. These logs are required to document the proper allocation of federal and non-federal funds used to pay employee salaries and wages. For

2011 and 2012, URP did not maintain monthly logs for \$285,242¹ in payroll. This amount includes payroll paid as follows to URP employees.

1. Employees reported on Schedule H4 (Disbursements for Allocated Federal/Non-Federal Activity) and paid with federal and non-federal funds during the same month (totaling \$269,776);
2. Employees reported on Schedule H4 and also paid with 100 percent non-federal funds during the same month (totaling \$962); and
3. Employees paid exclusively with non-federal funds in a given month (totaling \$14,504).

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the recordkeeping requirement with URP representatives during the exit conference. URP representatives stated they believed the payroll was allocated correctly. URP did not locate any payroll logs and noted that the plan moving forward is to keep payroll logs.

In response to the exit conference, URP representatives stated that the "[p]arty undertook efforts to ensure that staff time and other expenses were properly allocated between its federal and non-federal accounts. The Party did not however, maintain monthly payroll logs during the 2012 election cycle." URP representatives further stated they intended to maintain such payroll logs in the future.

URP submitted an affidavit from the executive director during the 2011-2012 audit cycle stating that identified employees did not spend more than 25 percent of their compensated work time on activities in connection with the federal election. The affidavit further stated that the executive director also did not spend more than 25 percent of his time on activities in connection with a federal election.

The affidavit provided by URP did not resolve the recordkeeping finding because it did not document the time an employee spent in connection with a federal election.

The Interim Audit Report recommended that URP provide evidence that it maintained monthly time logs to document the percentage of time an employee spent in connection with a federal election; or implement a plan to maintain monthly payroll logs in the future.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, URP's counsel stated that URP has long since remedied the issue identified for this finding. Again, in response to the exit conference, URP representatives stated they did not maintain monthly payroll logs but intend to maintain monthly payroll logs in the future. As such, URP complied with the Interim Audit Report recommendation by implementing a plan to maintain monthly payroll logs.

¹ This total does not include payroll for employees paid with 100 percent federal funds and reported as such (see Part I, Background, Commission Guidance, and Request for Early Commission Consideration of a Legal Question, Page 1). Payroll amounts are stated net of taxes and fringe benefits.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that URP did not maintain monthly payroll logs during the audit cycle totaling \$285,242, but intends to maintain monthly payroll logs in the future.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, URP stated the issue identified in the finding was remedied.

Commission Conclusion

On December 1, 2016, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that URP failed to maintain monthly payroll logs totaling \$285,242, as required, to document the percentage of time each employee spent in connection with a federal election.

The Commission approved a finding that URP failed to keep monthly payroll logs totaling \$270,738, which consisted of \$269,776 that URP disclosed as having been paid with an allocation of federal and non-federal funds and \$962 that was paid from an exclusively non-federal account during periods in which the employee was also paid with federal funds. The Commission did not approve the portion of the recommended finding related to the \$14,504 in payroll paid exclusively with non-federal funds during a given month and, as such, the matter is presented in the "Additional Issue" section.

Finding 5. Reporting of Debts and Obligations

Summary

During audit fieldwork, the Audit staff noted that URP failed to disclose debts and obligations to five vendors and one staff member totaling \$205,323 on Schedule D (Debts and Obligations). In response to the Interim Audit Report recommendation, URP filed amended reports to disclose \$101,711 of the \$111,191 debts and obligations owed to the five vendors. However, URP did not disclose the debt totaling \$94,132 for the staff member because it disagreed that these items should be considered as debt. In response to the Draft Final Audit Report, URP stated it already amended its disclosure reports as recommended by the Audit staff. As a result of not reporting the staff member's debt, URP did not materially correct the reporting of debts and obligations.

The Commission approved a finding that URP failed to disclose debts and obligations to five vendors and one staff member totaling \$205,323 on Schedule D.

Legal Standard

- A. Continuous Reporting Required.** A political committee must disclose the amount and nature of outstanding debts and obligations until those debts are extinguished. 52 U.S.C. §30104(b)(8) and 11 CFR §§104.3(d) and 104.11(a).
- B. Separate Schedules.** A political committee must file separate schedules for debts owed by the committee and debts owed to the committee, together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. 11 CFR §104.11(a).
- C. Itemizing Debts and Obligations.**
- A debt of \$500 or less must be reported once it has been outstanding 60 days from the date incurred (the date of the transaction); the committee reports it on the next regularly scheduled report.
 - A debt exceeding \$500 must be disclosed in the report that covers the date on which the debt was incurred. 11 CFR §104.11(b).
- D. Advances by Committee Staff and Other Individuals.**
1. **Scope.** This section applies to individuals who are not acting as commercial vendors. Individuals who are acting as commercial vendors shall follow the requirements of 11 CFR §§116.3 and 116.4.
 2. **The treatment as contributions.** The payment by an individual from his or her personal funds, including a personal credit card, for the costs incurred in providing goods or services to, or obtaining goods or services that are used by or on behalf of, a candidate or political committee is a contribution unless the payment is exempted under 11 CFR 100.79, it shall be considered a contribution by the individual unless-
 - a) The payment is for the individual's transportation expenses incurred while traveling on behalf of a candidate or political committee of a political party or for usual and normal subsistence expenses incurred by an individual, other than a volunteer, while traveling on behalf of a candidate or political committee of a political party; and

TESTIMONY

² The staff member is also discussed in Finding 6 for possible violation of 11 CFR §116.5(b), advances by committee staff considered a contribution.

reimbursement form submitted by the staff member, and/or invoices. The Audit staff used the individual dates of incurrence listed on the expense reimbursement form. The Audit staff did not use the date the reimbursement form was submitted because this date was unknown.

Documentation such as the staff member's credit card billing statements, requested by the Audit staff, was not provided. URP provided one credit card statement with the closing billing date during fieldwork.

B. Interim Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff discussed the reporting of debts and obligations with URP representatives and provided a schedule detailing the transactions requiring disclosure on Schedule D. URP representatives acknowledged they understood the schedules for vendors. They further stated the staff member turned in the expense reports late so URP did not know when the expenses needed to be reimbursed or that the expenses had been incurred. Therefore, the expenses could not have been reported correctly.

In response to the exit conference, URP representatives noted that most of the debt items were related to expense reimbursements paid to the staff member. URP representatives questioned the Audit staff's date calculation and stated they were not aware of the staff member's expenses until after receipts and/or expense reports were presented to the treasurer, which frequently occurred well after the underlying expenses were incurred. URP representatives added the regular practice was to issue reimbursements to the staff member within a calendar week of receipt of the expense reimbursement form. URP feels that the Audit staff should not consider these expenses as debt items from the date they were incurred since, generally, URP was not aware of the expense until well after the date of incurrence.

The Audit staff acknowledged that providing this individual's credit card statements with the billing cycle closing date could have reduced some of the debt disclosure omissions for the staff member. However, unless copies of the credit card statements were provided to show the closing date of the billing cycle, the Audit staff's analysis would remain unchanged. URP offered no further comments on the five vendors representing \$111,191 of the undisclosed debt and obligations.

The Interim Audit Report recommended URP provide documentation demonstrating the expenditures totaling \$205,323 did not require reporting on Schedule D; or provide the staff member's credit card billing statements with the closing date of the billing cycle. The Interim Audit Report further recommended that absent such documentation, URP amend its reports to disclose debts and obligations totaling \$205,323 on Schedule D.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, URP filed amended reports to disclose \$101,711 of the \$111,191 in debts for the five vendors. However, URP did not disclose any of the staff member's debt totaling \$94,132. URP restated they were not aware of the staff member's expenses until after receipts and/or expense reports were presented to the treasurer. The regular practice was to issue reimbursements within a calendar week of receipt of the expense reimbursement form. Therefore, URP did not think these expenses were debt.

It is noted URP did not provide any documentation demonstrating the date it received the expense reimbursement forms from the staff member. Nor did URP provide the staff member's credit card billing statements with the closing date of the billing cycle. Without this information to document alternative dates, the Audit staff's debt calculation continued to be based on the individual date of incurrence listed on the expense reimbursement forms provided during fieldwork. The total debt not reported was \$103,612 (\$94,132 + \$9,480). As such, URP did not materially correct the reporting of debts and obligations.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that URP filed amended reports to disclose \$101,711 of the debts and obligations owed to the five vendors, but did not materially correct the reporting of debts and obligations since it did not disclose any of the staff member's debt totaling \$94,132 on Schedule D.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, URP stated it already amended its disclosure reports as recommended by the Audit staff and continued to disagree that the \$94,132 owed to the staff member should be considered as debt.

Commission Conclusion

On December 1, 2016, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that URP failed to disclose debts and obligations to five vendors and one staff member totaling \$205,323 on Schedule D.

The Commission approved the Audit staff's recommendation.



FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSEL
Please use one form for each Auditee/Client
FAX (202) 219-3483

Audit:

NAME OF COUNSEL: KIRK JOWERS, MATTHEW SANDERSON

FIRM: CAPLIN & DRYSDALE, CHARTERED

ADDRESS: ONE THOMAS CIRCLE NW, SUITE 1100, WASHINGTON, DC 20005

TELEPHONE- OFFICE (202) 862-5000
FAX (202) 429-3301

The above-named individual and/or firm is hereby designated as my
counsel and is authorized to receive any notifications and other communications
from the Commission and to act on my behalf before the Commission.

3/7/14
Date

John Bell
Auditee/ Client Signature

Executive Director
Title

AUDITEE/CLIENT:

MAILING ADDRESS: 117 E. South Temple, Salt Lake City, Utah 84111
(Please Print)

TELEPHONE- HOME (801) 533-9777
BUSINESS (801) 533-9777

Purpose: To determine the referable amounts loss to SOL as of January 2017 and the via
Prepared: R. Morcomb

Name	Date: Receipts Transaction Date	Prohibited Amount (Violation)	Corrected by Committee
Imagine Learning Incorporated	9/14/2011	\$ 1,600.00	Yes
National Association For Gun Rights, Inc	4/11/2012	\$ 2,000.00	Yes
Cambia Health Solutions	7/5/2012	\$ 5,000.00	Yes
Microsoft	9/17/2012	\$ 5,000.00	Yes
Varian Medical Systems	9/17/2012	\$ 10,000.00	Yes
		<u>\$ 23,600.00</u>	

ible referable amounts as of February 2017

SOL 1 Years	SOL 2 Years	SOL 3 Years	SOL 4 Years	SOL 5 Years	Referable Amount Dropped at January 2017
9/14/2012	9/14/2013	9/14/2014	9/14/2015	9/14/2016	\$1,600.00
4/11/2013	4/11/2014	4/11/2015	4/11/2016	4/11/2017	
7/5/2013	7/5/2014	7/5/2015	7/5/2016	7/5/2017	
9/17/2013	9/17/2014	9/17/2015	9/17/2016	9/17/2017	
9/17/2013	9/17/2014	9/17/2015	9/17/2016	9/17/2017	\$1,600.00

1/20/2014 11:00 AM

17-047444-01

**Referable
Amount Still
Viable at
February 2017**

\$	2,000.00
\$	5,000.00
\$	5,000.00
\$	<u>10,000.00</u>
\$	22,000.00